HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO: 7596 of 1998

Dated: 19-09-2007

Between:

Marri Subba Rao

..... PETIT

AND

The Project Officer,
I.T.D.A., Paderu,
Visakhapatnam District and another.

.....RESPONI

Counsel for the petitioner : Sri G.Simhadri, for
Sri K.V.Subramanyam Narsu

Counsel for the respondents : A.G.P., for Social Welfare.

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HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No. 7596 of 1998

O R D E R:

This writ petition is filed for a writ of Mandamus to declare the action of the respondents in not appointing the petitioner to the post of teacher in Girijana Vidya Vikas Kendra (G.V.V.K.) Schools in Visakhapatnam areas as illegal and arbitrary. The petitioner also sought for a direction to the respondents to appoint him in any existing or future vacancies, if necessary, by relaxing

2 Kms radius Rule.

In his affidavit filed in support of the writ petition, the petitioner averred as under:

He passed SSC examination in the year 1994. In pursuance of the notification issued by the respondents calling for applications for filling up the posts of single teachers in G.V.V.K. Schools in Visakhapatnam tribal area, the petitioner sent his application, as he possessed the prescribed qualifications. 862 candidates appeared for the written test and the petitioner is one among them. He was called for interview along with 329 others. Interviews were held on 06-11-1996 and 07-11-1996. Though 140 Girijana Vidya Vikas Kendras were started in Visakhapatnam tribal areas, only 110 candidates were selected for 110 Kendras. On 09-11-1996 merit list was published in Andhra Jyothi daily. The petitioner's name figured in the said list. The Project Officer, ITDA addressed a letter dated 08-07-1997 to Commissioner of Tribal Welfare, Government of Andhra Pradesh, wherein he informed that 100 more vacancies have been sanctioned and that he may be permitted to fill up the said vacancies from out of the candidates who have already appeared in the written test and interview and who did not figure in the first merit list. The petitioner reliably learnt that the candidates who did not figure in the first merit list and who did not come up successfully in the interview were also selected and posted as single teachers in some of the G.V.V.K. schools. One Kuda Balarajulamma, a native of Ravimanupalem in Koyyur Mandal was posted at

Gondala G.V.V.K. School, Paderu though she was not successful in interview. Similarly, one Shyamala Nagamani of Thothaluru village of Koyyuru Mandal, who was also unsuccessful in the interview was given posting as a teacher in Ethachetlapalem G.V.V.K. school in Gudem Kotha Veedhi Mandal. Similar was the case of one Mantha Sathyavani, a native of Ravanapalle village, Koyyuru Mandal.

On the aforementioned facts pleaded, the petitioner alleged discrimination denying him the appointment while similarly situated persons were appointed as teachers.

Sri A.Sharath, Project Officer, ITDA Paderu – respondent No.1 filed a counter affidavit wherein it is stated that out of 861 candidates, who appeared for the written test, 330 candidates including the petitioner were successful and interviews were held between 06.11.1996 and 07.11.1996. He also admitted that a merit list of 110 candidates was published in the telugu daily on 09.11.1996. According to him, since there were no qualified candidates for remaining vacancies, they were kept vacant. It is further stated that the Government sanctioned 130 posts of GVVK teachers in ITDA, Paderu for the year 1994-1995 and 100 posts for the year 1995-1996 and as regards the petitioner, it is averred that he applied for the post of GVVK teacher of Susaipanuku of Hukumpet mandal alongwith 18 other candidates and that out of them three candidates were found eligible as they were natives villages situated within of 2 Km., radius as per the guidelines and after considering the candidatures of the said three candidates, one Basuru Ganapathi, resident of Jarrakonda village was selected on merit and he was accordingly appointed. It is further stated in the counter affidavit that in pursuance of the directions given by this Court, the Commissioner of Tribal Welfare, Andhra Pradesh, Hyderabad gave instruction in Rc.No.D2/6223/94, dated 1.2.1997 providing for 33 1/3 % reservation for women candidates and the said policy was implemented in respect of 130 posts by appointing women in 43 posts. Out of 130 posts, after appointing 43 women, the remaining 87 posts were filled up from out of the list of candidates selected and published on 09.11.1996. In para-13 of the counter affidavit, it is mentioned that inasmuch as the petitioner did not come up to the mark, his name was not short-listed in the list published on 09.11.1996.

Heard Sri G.Simhadri for Sri K.V.Subramanyam, learned counsel for the

petitioner and the learned Assistant Government for Social Welfare for respondents.

The learned counsel for the petitioner strenuously argued that the plea of the respondents, which is reflected for the first time in the counter affidavit that the women reservation was implemented is a pure after thought. He invited the Court's attention to para-3 (wrongly typed as para-2) of page-2 of the affidavit in which he referred to the names of certain women candidates who despite not having been selected in the interview are appointed. The petitioner therefore, alleges discrimination by stating that though the said women candidates are similarly placed as that of the petitioner they were appointed while the petitioner was denied a similar treatment.

I have considered the respective submissions of the learned counsel.

The fact that the petitioner has not come up in selection is not disputed by him. His only grievance is that though certain women candidates, as mentioned in his affidavit, have also failed in the selection, they were appointed. In this regard it is apt to refer to para-10 of the counter affidavit filed by respondent No.1, which is extracted below:

> " It is submitted that originally 130 GVVKs were sanctioned and candidates were selected for 110 GVVKs only. As rule of reservation for women was not observed in the above selection the women candidates who appeared to the oral interview have been selected to an extent of 33 1/3 % seats in 130 GVVKs, i.e., 43 posts as per the directions given by the Hon'ble High Court and instructions of the Commissioner, Tribal Welfare, A.P., Hyderabad in Rc.No.D2/6223/04, dated 01.03.1997. All the 43 posts have been reserved for women candidates and the remaining 87 posts were only filled in from out of the candidates selected and published on 09.11.1996."

It is quite evident from the above reproduced paragraph of the counter a that though the rule of reservation for women was not observed in the beginnin selection, in view of the policy decision taken to implement the rule of reserva women candidates who appeared for the interview were appointed in order to with the requirement of reservation for women. In view of this categorical subr coming forth from the respondents, I do not see any merit in the contention learned counsel for the petitioner that he is similarly placed as that of the said candidates. The petitioner has not produced any material to prove that the stan by the respondent with respect to the provision for reservation for women is incc

am of the view that as the petitioner failed to get selected for the post of teache not entitled to be appointed as such. The plea of discrimination, aforementioned reasons, cannot be sustained.

For the reasons stated above, the writ petition is dismissed. No orde costs.

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C.V.NAGARJUNA REDDY,J

Date:19.09.2007
Klp / mdaa